

6.1 INTRODUCTION

Norfolk Southern Railway Company provides rail freight service across New York State via its Southern Tier route. The Southern Tier is a critical freight rail line between Buffalo and Binghamton and provides connections to Canada and the Eastern Seaboard of the United States. The Southern Tier route is also used by Canadian Pacific Railway and provides interchange connections to 11 short line freight railroads. In addition to regional and national service, it serves communities in western and southern New York State and northern and eastern Pennsylvania. The Southern Tier route passes through Letchworth State Park in western New York, on right-of-way owned by Norfolk Southern but within the boundaries of the park. This right-of-way within the park boundaries includes the Portageville Bridge, which provides the crossing over the Genesee River between Wyoming and Livingston Counties. The bridge, which opened to rail traffic in 1875, has reached the end of its useful life as a freight rail structure and must now be upgraded or replaced.

This document is the Section 6(f) Evaluation for the Portageville Bridge Project (the Project). This evaluation is provided to satisfy the requirements of the Land and Water Conservation Fund (LWCF) Act, 16 USC §§ 4601-4 to 4601-11 (commonly referred to as Section 6(f), as the provision was originally contained in Section 6(f)(3) of the LWCF Act, Public Law 88-578 of 1962, before codification). This statute established the LWCF State Assistance Program, a nationwide program for funding the acquisition and development of public outdoor recreation resources. As set forth in the statute and its implementing regulations (36 CFR Part 59), property that is acquired or developed with LWCF assistance must be retained and used for public outdoor recreation. Any property so acquired and/or developed cannot be wholly or partly converted to other than public outdoor recreation uses without the approval of NPS pursuant to Section 6(f)(3) of the LWCF Act and the implementing regulations.

This statute and its implementing regulations prescribe the conditions that must be satisfied for the use or transfer of parklands or open spaces that have been improved with funds received through the LWCF. As discussed below, Letchworth State Park has received such funding and therefore the involved agencies have concluded this statute applies to the Project. As described in this document, an approval pursuant to Section 6(f) is required because the Project requires the permanent use of small areas of land, adjacent to the current railroad right-of-way, that are currently part of the park. This land is proposed to be permanently converted from outdoor recreation use. In addition, the Project requires the extended temporary use of another small area for a construction easement. Replacement land would be provided to the park by Norfolk Southern in accordance with the requirements of Section 6(f).

6.2 REGULATORY FRAMEWORK

The U.S. Department of the Interior (DOI), through the National Park Service (NPS), provides funding under the LWCF for state and local efforts to plan, acquire, or develop land to advance outdoor recreational activities. (16 USC § 4601-4) The New York State Office of Parks, Recreation and Historic Preservation (OPRHP) serves as the New York State agency that administers LWCF funds received from DOI. Using LWCF funds creates certain limitations on future changes to LWCF-funded parks or recreational facilities. Once LWCF funds are used for a

particular recreation project, conversion of that park facility for any non-recreational purpose is conditioned on NPS approving such non-recreational use in accordance with Section 6(f). Prior approval by NPS is required for the conversion and replacement of parkland subject to this regulation and any NPS approval must be based on a determination that the conversion meets the conditions under Section 6(f) described in more detail below. (16 USC § 4601-8[f][3]) Responsibility for compliance and enforcement of the requirements rests with the state, and in New York State with OPRHP.

Under the LWCF Act and applicable federal Department of the Interior regulations (36 CFR Part 59), conversion of parkland may be approved only if NPS finds that the following nine criteria have been met:

- 1) All practical alternatives to the proposed conversion have been evaluated;
- 2) The fair market value of the park property to be converted has been established and that the property proposed for substitution is of at least equal fair market value, as established by an approved appraisal in accordance with the Uniform Appraisal Standards for Federal Land Acquisition, excluding the value of structures or facilities that will not serve recreational purposes;
- 3) The proposed replacement property is of reasonably equivalent usefulness and location as the converted property;
- 4) The property proposed for substitution meets the eligibility requirements for LWCF-assisted acquisition;
- 5) For properties that are proposed to be partially rather than wholly converted, the impact of the converted portion on the remainder must be considered and the unconverted area must remain recreationally viable, or be replaced as well;
- 6) All necessary coordination with other federal agencies has been satisfactorily accomplished, including compliance with Section 4(f) of the U.S. Department of Transportation Act of 1966;
- 7) The guidelines for environmental evaluation have been satisfactorily completed and considered by the National Park Service during its review of the conversion proposal;
- 8) If the proposed conversion constitutes a significant change to the original LWCF project, State intergovernmental clearinghouse review procedures have been adhered to; and
- 9) The proposed conversion is in accordance with the applicable Statewide Comprehensive Outdoor Recreation Plan (SCORP) and/or equivalent recreational plans.

NPS's LWCF State Assistance Program Manual¹ (referred to in this chapter as the NPS Program Manual) defines "small conversions" as those that affect no more than 10 percent of the Section 6(f) protected area, or five acres, whichever is less. The NPS Program Manual indicates that small conversions are less complex and therefore NPS review and decision-making can be facilitated, when 1) minor or no environmental impacts would result, including impacts to historic resources evaluated under Section 106 of the National Historic Preservation Act; 2) the proposed conversion is not controversial; and 3) the replacement property is contiguous to the land to original Section 6(f) area. The proposed conversion for the Portageville Bridge project would affect less than 5 acres, and far less than 10 percent of the total land area of Letchworth State Park, but is not considered a small conversion because of the Project's environmental impacts, including impacts to historic and visual resources, as described in Chapters 3 and 4 of the Draft Environmental Impact Statement. Therefore, a full conversion evaluation for compliance with the requirements of Section 6(f) is provided in this chapter.

¹ U.S. Department of the Interior, National Park Service, Land and Water Conservation Fund State Assistance Program, Federal Financial Assistance Manual Volume 69, Effective Date: October 1, 2008. Available at: <http://www.nps.gov/ncrc/programs/lwcf/manual/lwcf.pdf>.

This Section 6(f) Evaluation describes the applicability of Section 6(f) to the Project (in Section 6.3 of this evaluation) and then considers the Project's proposed conversion and replacement of parkland for its compliance with the nine regulatory criteria outlined above (see Section 6.4 below). The final section of this document (Section 6.5) describes agency coordination efforts that have been and will be undertaken with respect to Section 6(f).

6.3 APPLICABILITY OF SECTION 6(f) TO THE PROJECT

6.3.1 Park Overview

Letchworth State Park is a 14,350-acre park that extends approximately 17 miles along both sides of the Genesee River. The park is generally wooded with winding roads and hilly terrain. Within the park, the Genesee River flows from south to north through a deep gorge and over three major waterfalls that are in the southern section of the park: Upper Falls, Middle Falls, and Lower Falls. **Figure 6-1** provides a map of the park with the Portageville Bridge location noted.

The park hosts a variety of recreational features and activities, all organized along and around the scenic Genesee River and gorge. These include scenic roads and 66 miles of trails that can be used for hiking, biking, horseback riding, snowmobiling, and cross-country skiing. There are over 270 campsites, 82 cabins, numerous picnic areas, two swimming pools, and the historic Glen Iris Inn. Hunting and fishing are allowed, as well as whitewater rafting, kayaking, and hot air ballooning. The park has a number of scenic viewing locations, including the scenic overlooks that are located along the edge of the Genesee River gorge, connected to the park trail system. The park is characterized by the scenic gorge and by the picturesque stone walls and staircases, stone structures (comfort stations, concession stands, picnic tables), and a number of historic sites and structures such as the Glen Iris Inn and Council Grounds, where historic cabins have been reconstructed.

Letchworth State Park is referred to as the "Grand Canyon of the East," because of its dramatic topography. The park's scenic features include its natural elements—including the forested gorge, majestic waterfalls, and scenic vistas—and its historic elements—including the railroad bridge, stone walls and staircases along the park's roads and trails, stone structures (comfort stations, concession stands, etc.) and picnic tables, and a number of historic structures such as the Glen Iris Inn. Many of the most scenic elements of the park are located in the southern half of the park, which houses the three major waterfalls, scenic overlooks, and most of the historic structures in the park. The Portageville Bridge contributes to the scenic character of this end of the park and is depicted on park postcards and memorabilia. As a state park that is listed on the State and National Registers of Historic Places, Letchworth State Park is an aesthetic resource of statewide significance. The Genesee River and gorge, waterfalls, and the Portageville Bridge are contributing elements of this aesthetic resource. The north end of the park has fewer scenic sites of this nature, and is characterized predominantly by the Mt. Morris Dam on the Genesee River. This end of the park also has a large trailer and tent camping area.

The main park road, Park Road, runs along the western side of the river with turnoffs leading to viewpoints and other park areas. On the eastern side of the river, park roads provide access to the south and north ends of the park, but there is no continuous park road along this side of the river. A number of trails also run along both sides of the river for the length of the park.

According to OPRHP, Letchworth State Park is used by approximately 650,000 annual visitors, and the south end of the park is the most intensely used area of the park and supports the greatest number of visitors.

6.3.2 Location of Railroad Right-of-Way Through Park

As shown in **Figure 6-1**, Norfolk Southern's Southern Tier rail freight route passes through the southern end of Letchworth State Park. This route is owned by Norfolk Southern and surrounded

5.9.14



0 1 2 MILES
SCALE

PORTAGEVILLE BRIDGE

Location of Project
in Letchworth State Park
Figure 6-1

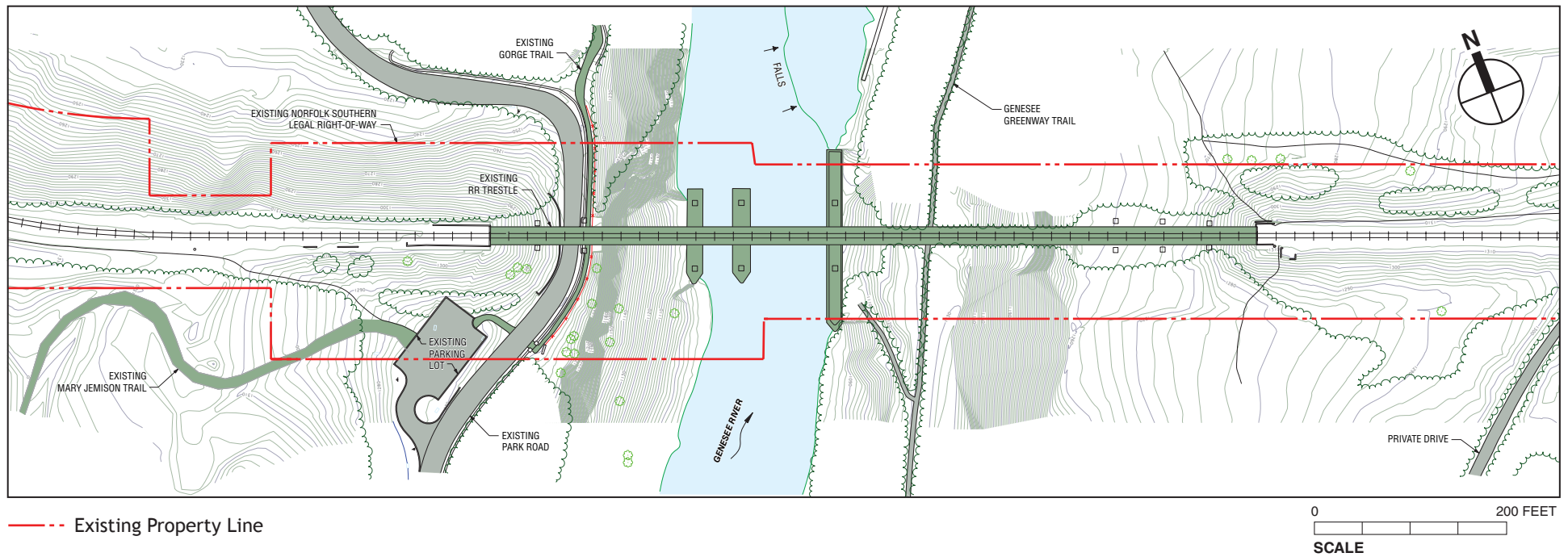
by the parkland of Letchworth State Park. Norfolk Southern currently operates 12 to 14 trains per day on this route. Norfolk Southern's right-of-way includes the existing Portageville Bridge over the Genesee River, near the Upper Falls in the southern end of the park (see **Figure 6-2**). On the west side of the river, several park features encroach within Norfolk Southern's right-of-way, including an approximately 160-foot-long segment of Park Road, the southern ends of the Mary Jemison Trail and Gorge Trail, and half of a small parking lot (the Highbridge Parking Area) that provides access to those two trailheads (see **Figure 6-3**). On the east side of the river, a portion of the Genesee Valley Greenway Trail encroaches within Norfolk Southern's right-of-way.

6.3.3 LWCF Funding at Letchworth State Park

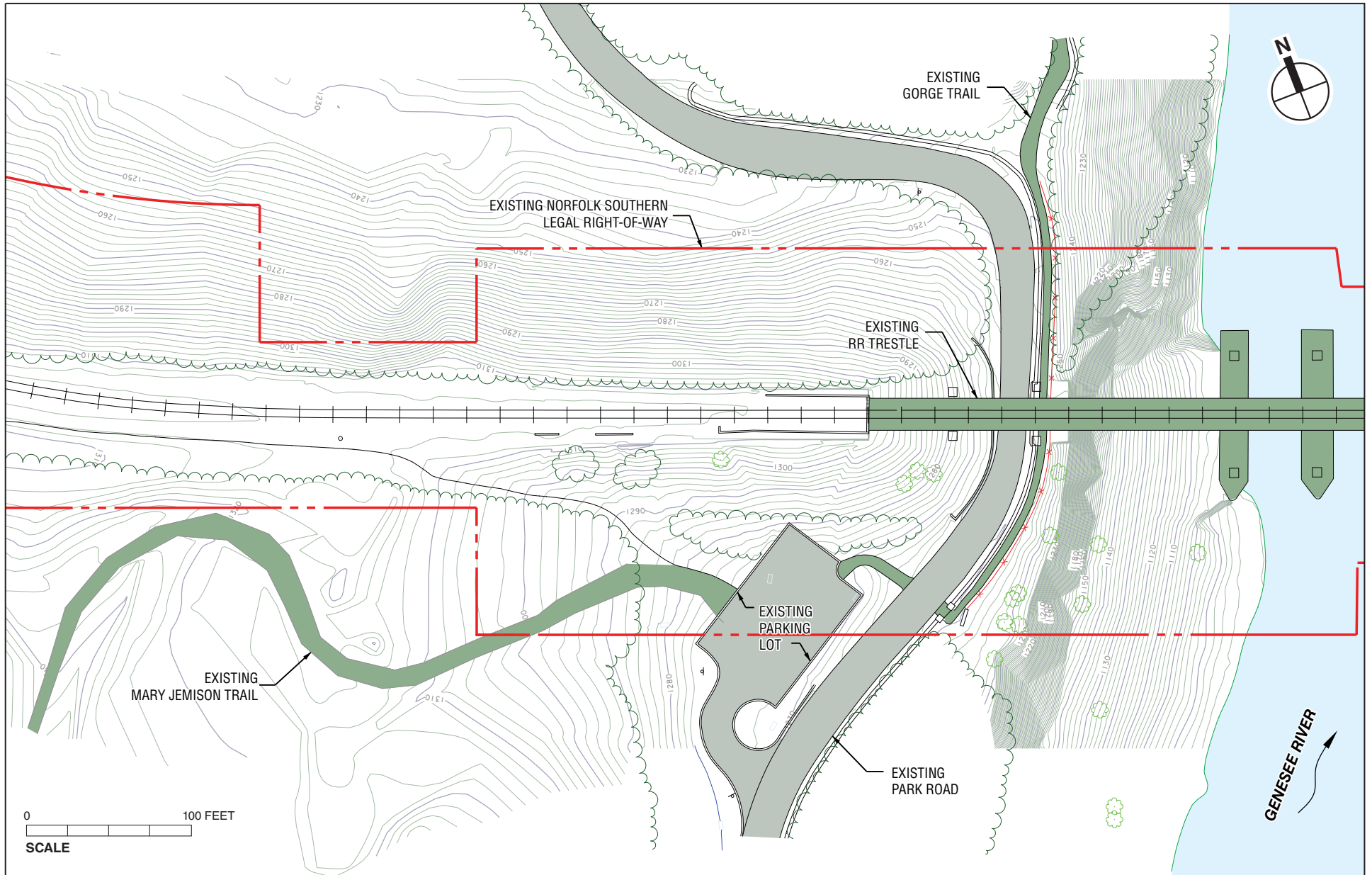
Between 1976 and 2004, Letchworth State Park received 12 grants under the LWCF for improvements to facilities within the park. Information on these grants is set forth in **Table 6-1** below, based on information provided by OPRHP. According to OPRHP, these grants were used for rehabilitation of roads in the park and for general improvements to the park. NPS regulations (36 CRF § 59.1) as well as the NPS Program Manual indicate that the OPRHP's responsibilities to protect the funded park generally exceed the area that actually received LWCF assistance, so as to assure the protection of a viable recreation area (see NPS Program Manual, page 8-3). Therefore, Section 6(f) applies to the Portageville Bridge Project due to the development of Letchworth State Park facilities using LWCF funding in the past.

Table 6-1
Land and Water Conservation Fund Act Grants
to Letchworth State Park

Grant ID	Project Name	Year	Status	Description
36-01270	Letchworth Sanitary System	2004	Active	Renovation development of support facilities (utilities)
36-01156	Letchworth State Park	1991	Closed	Lower Falls pedestrian bridge and adjacent trail.
36-01016	Letchworth State Park	1983	Closed	Roadway rehabilitation, including resurfacing of park road and shoulder and drainage work.
36-00991D	Darien Lake State Park / Letchworth State Park	1981	Active	In Letchworth State Park: Lower Falls / Highbanks Pools rehabilitation of filter room and plumbing, handicapped accessibility
36-00958C	Multi-Site Project	1981	Closed	In Letchworth State Park: modifications to administration building
36-00887C	79-80 Handicapped	1981	Closed	Modifications for handicapped accessibility.
36-00881	Letchworth State Park Roads	1980	Closed	Rehabilitation of support facilities.
36-00868	Letchworth State Park Road Rehabilitation	1980	Closed	Rehabilitation of support facilities.
36-00833	Letchworth State Park Reconstruction	1979	Closed	Reconstruction of support facilities.
36-00709	78/79 Rehab	1978	Closed	In Letchworth State Park: Replacement of sewage system at Loop B, replacement of plumbing at Lower Falls pool.
36-00638	Highland Camping Area	1978	Closed	Rehabilitation of sewage system, resurfacing of camping area roads
36-00471	Letchworth State Park	1976	Closed	Rehabilitation of Upper Falls comfort station, three cabins and shower and laundry building in Cabin Area C and Lower Falls concession building, major repairs to picnic shelter at Barracks Grounds and Tea Table Rock, and roads in Highbanks camping area.
Source: OPRHP, letter dated September 27, 2010.				



Existing Norfolk Southern Right-of-Way
at Genesee River Crossing
Figure 6-2



--- Existing Property Line

Existing Norfolk Southern Right-of-Way,
West Side of Genesee River
Figure 6-3

6.3.4 Need for Conversion of Section 6(f) Property

The purpose of the Project is to address the existing deficiencies at the Portageville Bridge by providing a modern rail crossing of the Genesee River, at its current location, that is capable of carrying current industry standard freight rail loads and that to the greatest degree possible meets the Federal Railroad Administration's Class 4 speeds, while reducing ongoing maintenance efforts and costs. The Project is needed for Norfolk Southern to continue to provide safe, reliable, and efficient rail operations on the Southern Tier route. These operations are critical to the economic viability and growth of the Southern Tier and other affected areas of New York.

The Preferred Alternative would involve construction of a new bridge parallel to the existing rail bridge that crosses the Genesee River within Letchworth State Park. It would also require relocation of existing Park Road within the vicinity of the bridge to make space for the new bridge structure's foundations as well as relocation of the Highbridge Parking Area from an area south of the existing bridge within Norfolk Southern's right-of-way to parkland north of the right-of-way. Once the new bridge is complete, the old bridge would be removed. **Figure 6-4** illustrates the Preferred Alternative, and **Figure 6-5** provides a closer view of the Preferred Alternative on the west side of the Genesee River.

As can be seen by comparing **Figure 6-2** to **Figure 6-4**, and **Figure 6-3** to **Figure 6-5**, the Preferred Alternative would shift the railroad right-of-way slightly southward from its existing location, in order to align with the new bridge. The railroad right-of-way would be shifted southward to accommodate the location of the replacement bridge approximately 75 feet (measured from center line to center line) to the south of the existing bridge. To implement this shift, the Project would require the permanent conversion from parkland of an area of Letchworth State Park immediately south of the existing right-of-way.

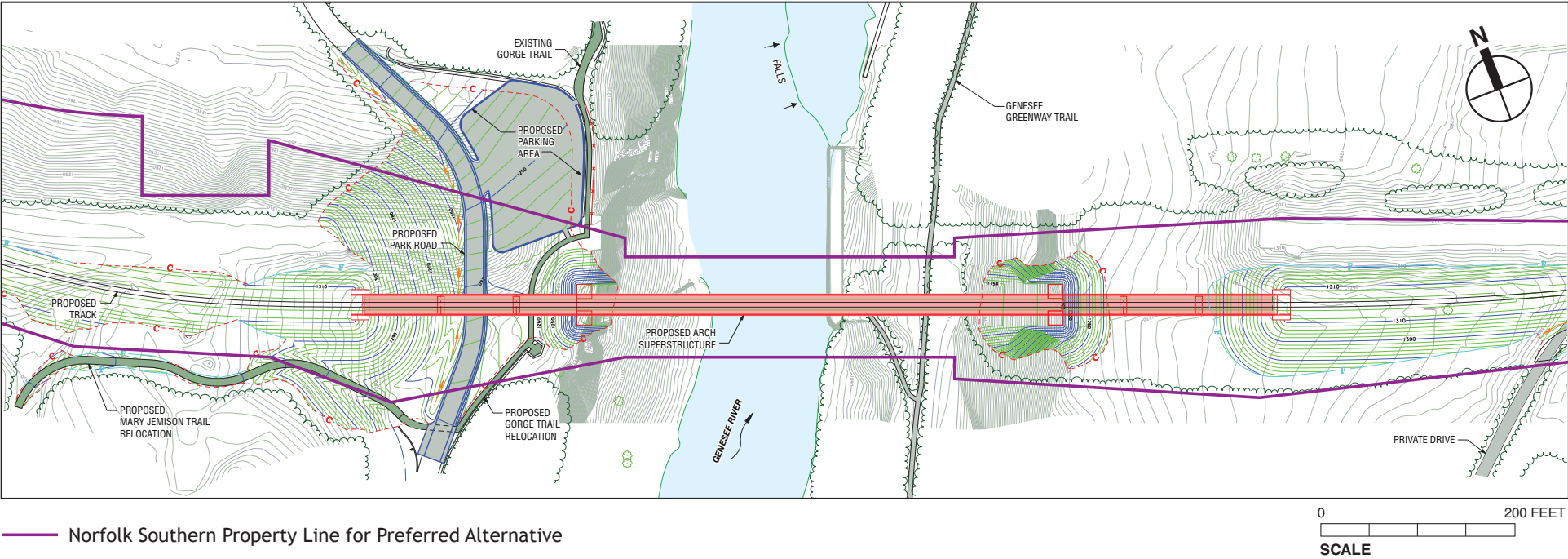
Construction activities for the Project would occur within Norfolk Southern's existing right-of-way and the new right-of-way area to be acquired for the Project. During the Project's construction period, estimated at approximately 27 months, the area on the west side of the river within the Norfolk Southern right-of-way would be closed to the public to facilitate construction of the new bridge and the associated shift in Park Road that is required. For the duration of the construction period, therefore, the segments of Park Road, the Highbridge Parking Area, the Mary Jemison Trail, and the Gorge Trail located within the Norfolk Southern right-of-way would have to be closed to the public.

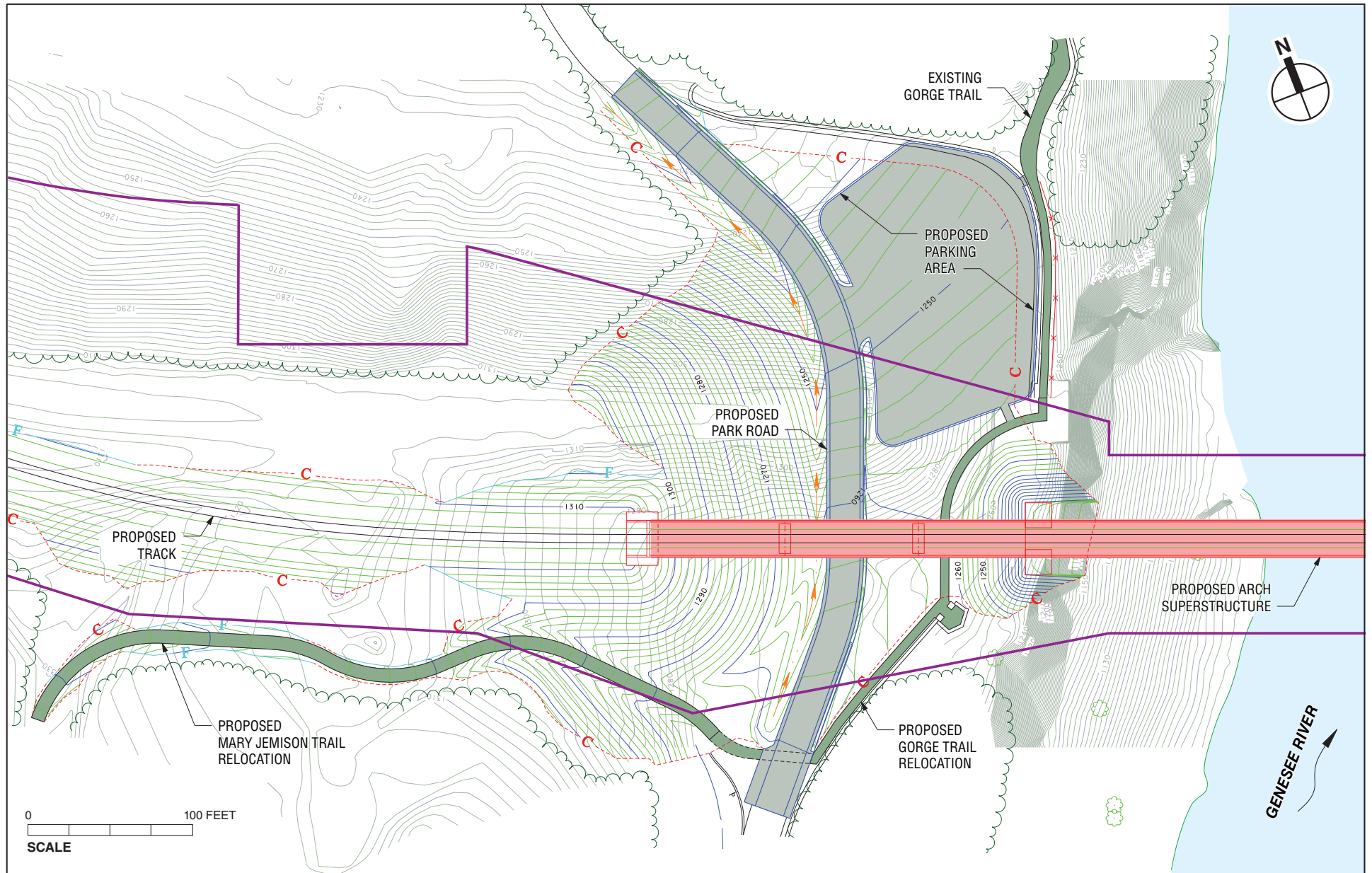
In addition, land adjacent to the existing and proposed right-of-way would be required during the construction period for contractor access and staging areas. This land would not be permanently converted from parkland to railroad use, but would be required for either all or a portion of the construction period of approximately 27 months.

6.3.5 Identification of Section 6(f) Properties

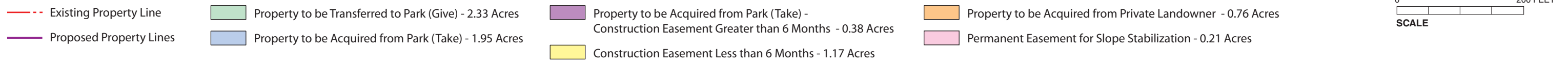
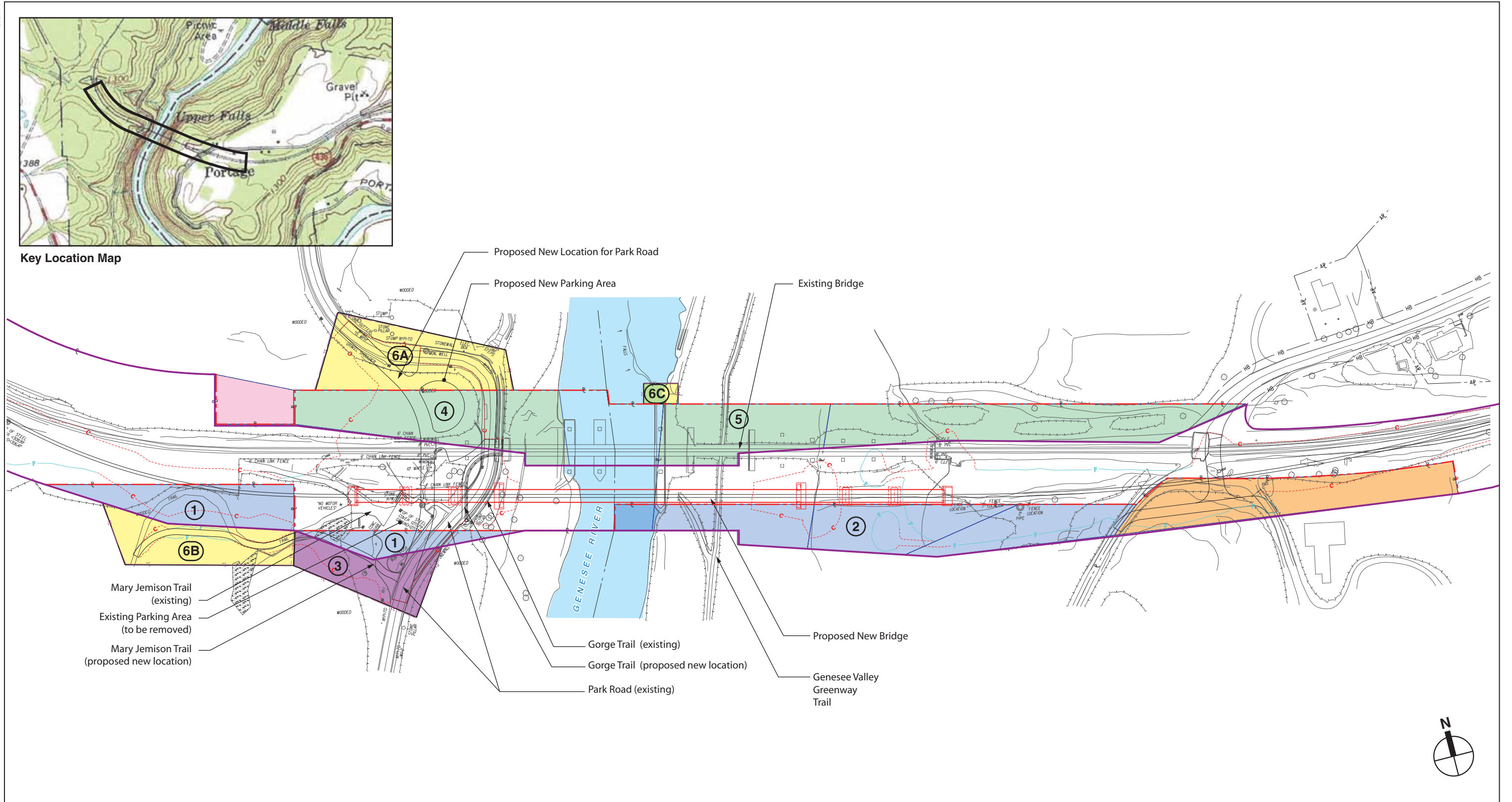
Conversion Area

A total of approximately 2.33 acres would be converted from parkland for the Project, including approximately 1.95 acres to be acquired by Norfolk Southern to become a permanent part of the railroad right-of-way, and an additional 0.38 acres of parkland to be used for the duration of construction (i.e., a conversion of more than six months) and then returned to the park once construction is complete. According to the NPS Program Manual, use of parkland for more than six months will not be considered temporary, but will result in conversion of use and will require provision of replacement property pursuant to Section 6(f). The conversion areas are identified in **Table 6-2** and shown in **Figures 6-6** and **6-7**.



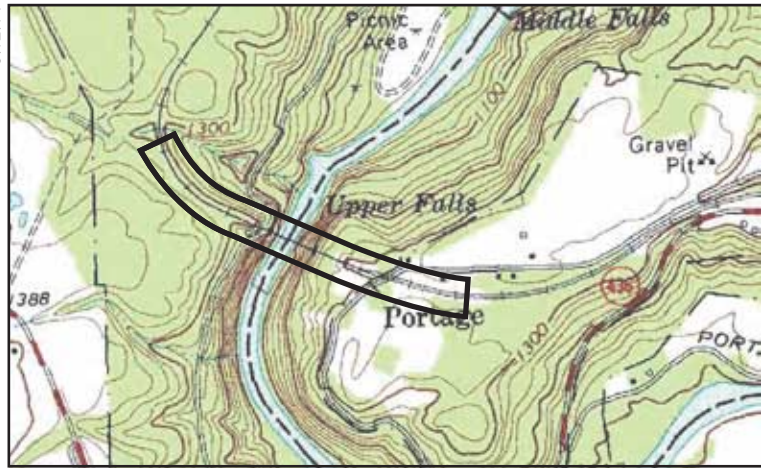


— Norfolk Southern Property Line for Preferred Alternative



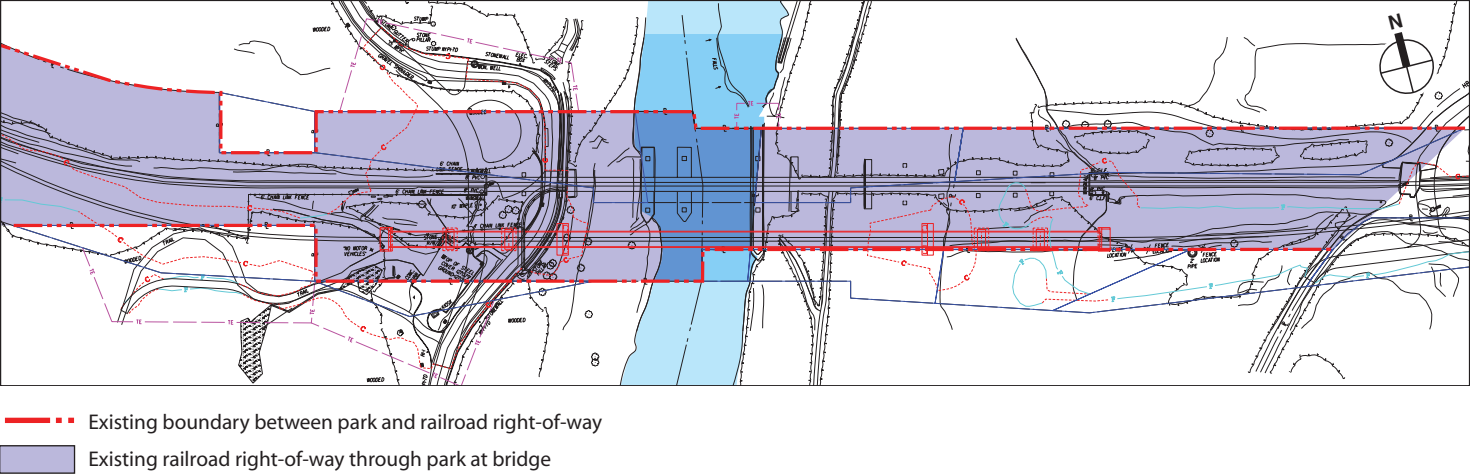
① Refer to Tables 6-2 and 6-3 for more information



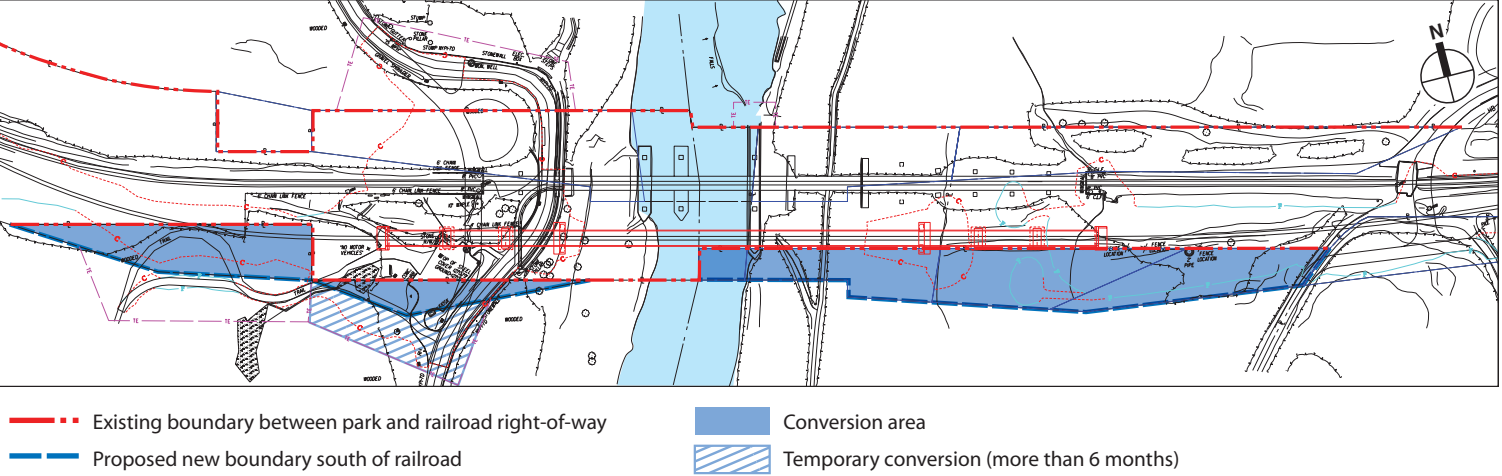


Key Location Map

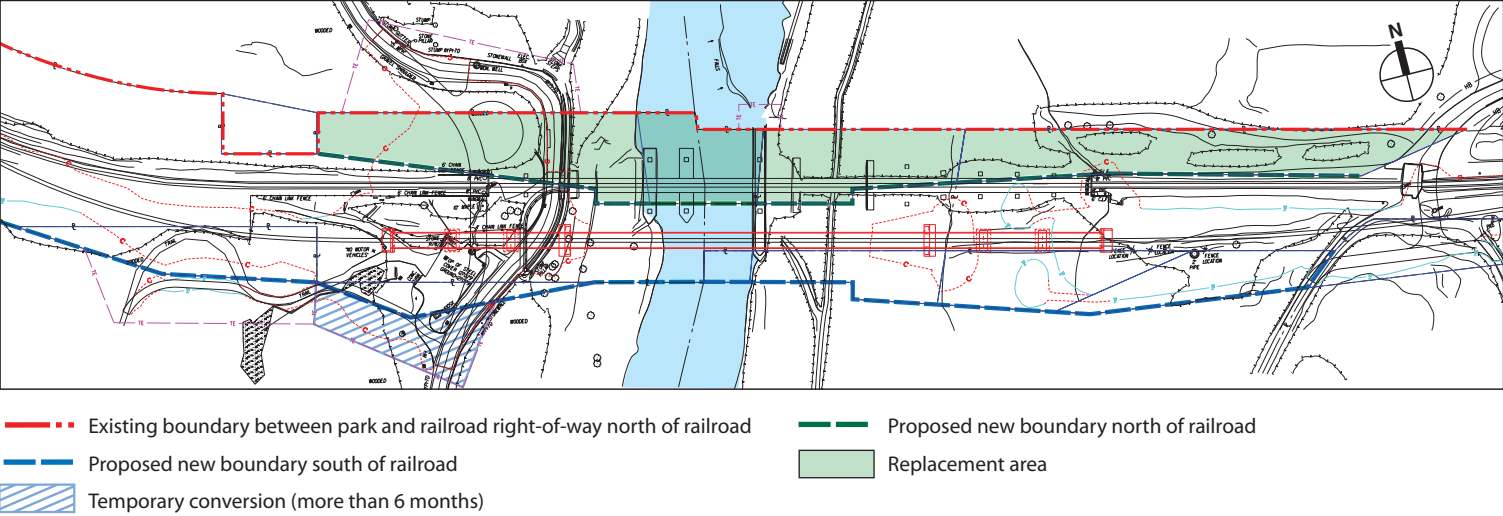
A. Existing Park Boundaries, Letchworth State Park at Portageville Bridge



B. Proposed Conversion Area (land to be converted from parkland)



C. Proposed Replacement Area (land to be added to park)



D. Proposed New Park Boundaries, Letchworth State Park at Portageville Bridge (after conversion and replacement)

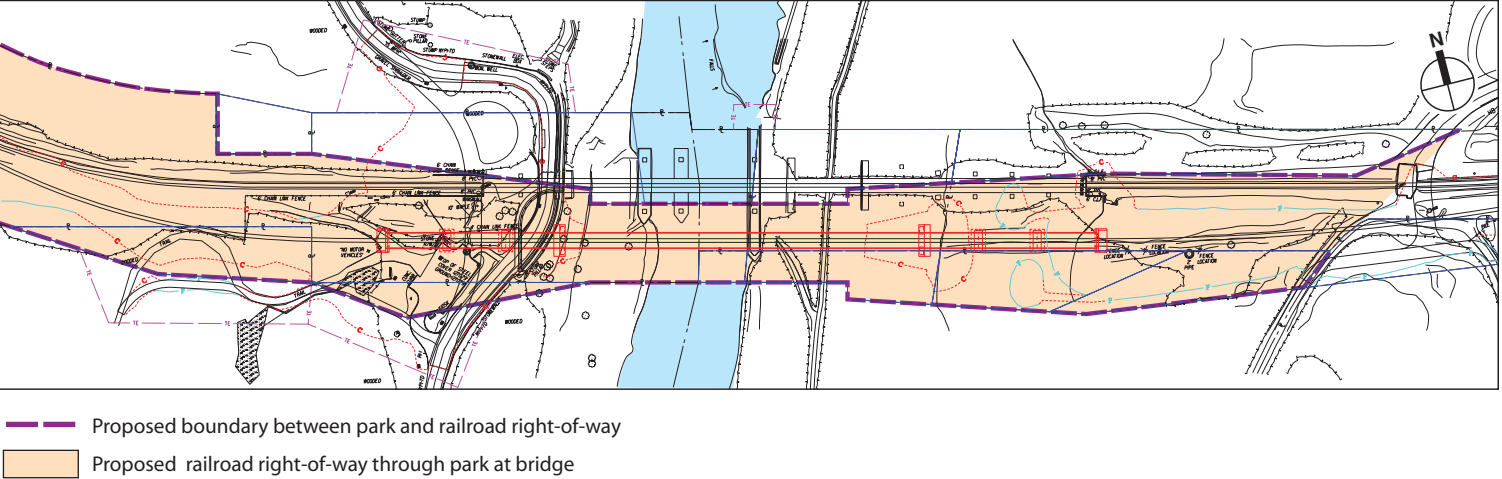


Table 6-2
Conversion Area and Replacement Area

Property*	Owner	Estimated Area (acres)	Existing Uses	Need for Conversion / Proposed Use
Park Areas to be Permanently Converted from Parkland				
1	People of the State of New York – Genesee State Park Commission	0.70	Wooded area on the west side of the river that includes approximately half of a parking lot (the other half of which is already within railroad right-of-way), approximately 40 linear feet of Park Road (approximately 160 additional feet are located within Norfolk Southern's right-of-way), approximately 200 linear feet of the Mary Jemison Trail (the first 140 feet of this trail is currently located in Norfolk Southern's right-of-way), and an area of the gorge face. (Wyoming County)	Required for new railroad right-of-way and associated embankment and retaining wall. Will also continue to include relocated Park Road and relocated Mary Jemison Trail. Parking lot to be removed and relocated to replacement parcel (see below).
2	People of the State of New York – Genesee State Park Commission	1.25	Waters of Genesee River, portion of footing of existing bridge, steep river bank on east side of river, approximately 50 linear feet of the Genesee Valley Greenway Trail, wooded area. (Livingston County)	Required for new bridge and railroad right-of-way. Will also continue to include waters of the Genesee River, area adjacent to new railroad right-of-way beneath bridge span, and Genesee Valley Greenway Trail.
<i>Subtotal - Permanent Conversion</i>		1.95		
Park Areas to be Converted to Allow Construction for Longer Than 6 Months				
3	People of the State of New York – Genesee State Park Commission	0.38	Wooded area on west side of river south of proposed right-of-way. Includes approximately 120 linear feet of Park Road. (Wyoming County)	Construction easement for entire construction period (27 months). This area would be restored at completion of construction so that no permanent damage occurs to the parkland. The relocated trailhead for the Mary Jemison Trail would be located within this area when construction is complete.
<i>Subtotal – Temporary Conversion</i>		0.38		
TOTAL CONVERSION AREA		2.33		
Replacement Area to be Transferred to the Park				
4	Norfolk Southern	0.88	Wooded area on west side of river that currently abuts parkland. Includes approximately 80 linear feet of existing railroad right-of-way, including a portion of the existing rail bridge. Also includes steep banks on the west side of river and approximately 100 linear feet of Park Road and Gorge Trail (Wyoming County).	No longer needed for railroad right-of-way; following construction, this replacement parcel will be located north of the new right-of-way. Park Road to remain, although shifted slightly, and new parking area to be created partly within this replacement parcel and partly within Norfolk Southern right-of-way. Gorge Trail and steep slopes and wooded areas to remain.
5	Norfolk Southern	1.45	Wooded area on east side of the river that currently abuts parkland. Includes approximately 260 linear feet of railroad right-of-way, including a portion supporting the existing rail bridge. Also includes steep banks on the east side of river and approximately 100 linear feet of the Genesee Valley Greenway Trail on east side of river. (Livingston County).	No longer needed for railroad right-of-way; following construction, this replacement parcel will be located north of the new right-of-way. Genesee Valley Greenway Trail and steep slopes and wooded areas to remain.
TOTAL REPLACEMENT AREA		2.33		
Note: * Refer to Figures 6-6 and 6-7.				

Replacement Area

The LWCF regulations require that any parkland protected under Section 6(f) that is converted from parkland must be replaced by new parkland that is of at least equal fair market value and reasonably equivalent usefulness and location to the converted parkland. In accordance with that requirement, Norfolk Southern would transfer approximately 2.33 acres of land that is part of the current railroad right-of-way associated with the configuration of the existing bridge to OPRHP (see **Table 6-2** and **Figures 6-6 and 6-7**). This land would be available when construction is complete and at that time would become part of Letchworth State Park, with legal public access.

Temporary Non-Conforming Use for Less than Six Months

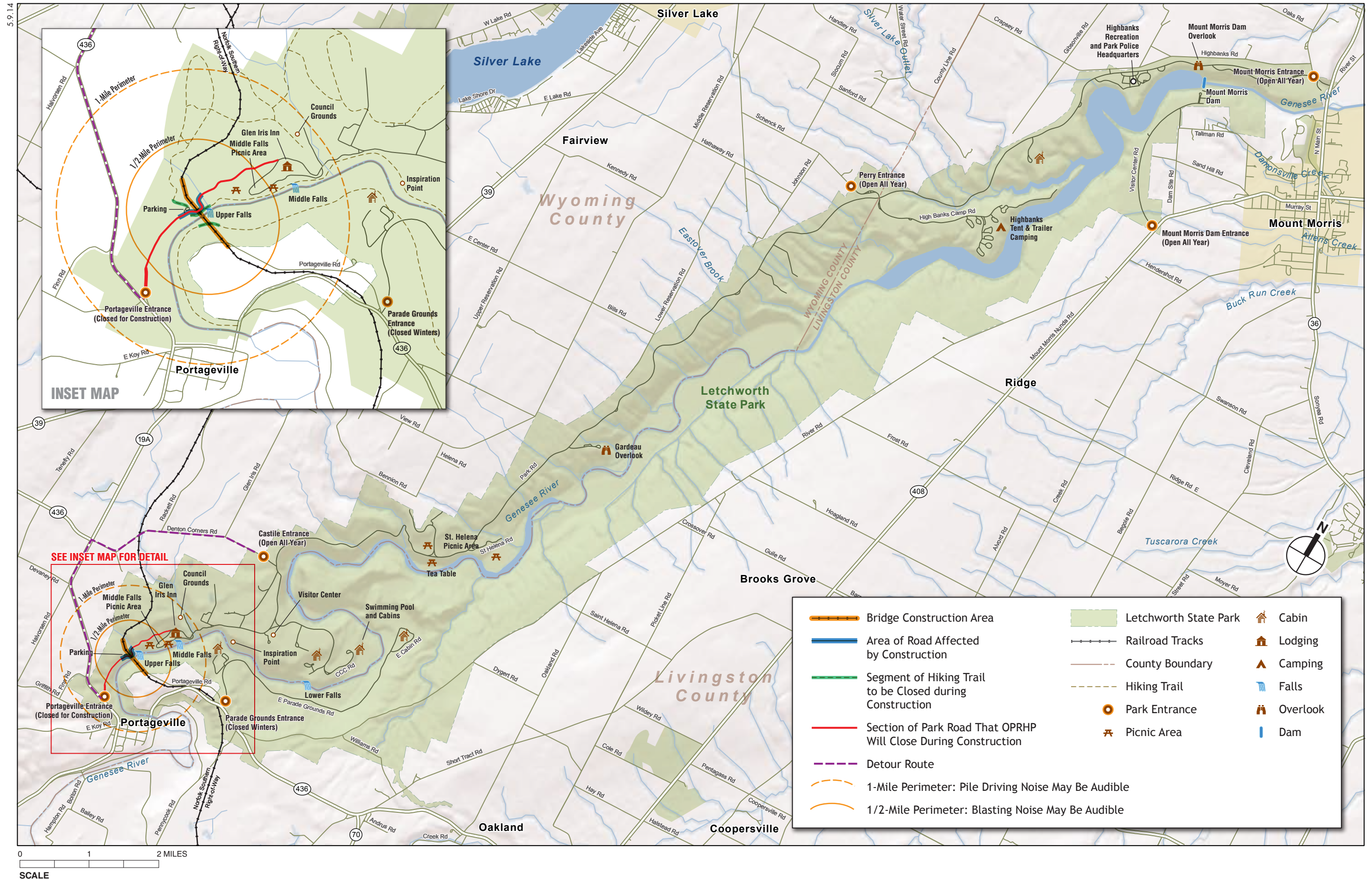
According to the NPS Program Manual, all requests for temporary uses of parkland for non-recreational use must be reviewed by NPS, and use for less than six months can generally be considered temporary. As set forth in the NPS Program Manual, NPS will consider the following criteria in evaluating proposals for temporary use of parkland:

- The size of the parkland area affected by any temporary non-recreation use shall not result in a significant impact on public outdoor recreation use. This means that the site of the temporary activity should be sufficiently small to restrict its impacts on other areas of the park.
- A temporary use shall not result in permanent damage to the park site, and appropriate mitigating measures will be taken to ensure no residual impacts on the site once the temporary use is concluded.
- No practical alternatives to the proposed temporary use exist.
- All applicable federal requirements for approval are met.

Three temporary construction easements, totaling approximately 1.17 acres, would be required for a period of less than six months in total to facilitate construction of the Project. These areas are shown in **Figures 6-6 and 6-7** and described in **Table 6-3** below. As noted in the table, these areas include a segment of Park Road and the Gorge Trail north of the existing right-of-way (Area 6A), an area south of the existing railroad right of way that includes a portion of the Mary Jemison Trail (Area 6B), and a portion of an existing bridge pier and immediate area (Area 6C). These areas would be restored at completion of construction so that no permanent damage occurs to the parkland.

Table 6-3
Park Areas to be Used During Construction for Less Than Six Months

Property (Refer to Figure 6-6)	Owner	Estimated Area (acres)	Existing Uses	Need for Conversion / Proposed Use
6A	People of the State of New York – Genesee State Park Commission	0.67	Wooded, sloped area on the west side of the river north of the existing railroad right-of-way. Includes approximately 300 linear feet of Park Road and approximately 80 linear feet of the Gorge Trail.	Construction easement for less than six months. Park Road and Gorge Trail to be closed in this area during construction. Easement needed to construct relocated Highbridge Parking Area, relocated Gorge Trail segment, and relocated Park Road segment.
6B	People of the State of New York – Genesee State Park Commission	0.45	Wooded area on west side of river south of proposed right-of-way. Includes approximately 210 linear feet of the Mary Jemison Trail.	Construction easement for less than six months. Easement needed for reconstruction of a portion of the Mary Jemison Trail, which would be permanently shifted into this area.
6C	People of the State of New York – Genesee State Park Commission	0.05	Bridge support within Genesee River	Construction easement for less than six months to facilitate demolition of old bridge.
TOTAL TEMPORARY AREA		1.17		



6.4 CONSISTENCY WITH REGULATORY REQUIREMENTS

This section considers the proposed conversion and replacement of parkland for its compliance with the nine regulatory requirements that must be met by NPS before approval of a conversion proposal can be issued. As discussed below, one of these criteria does not apply to the Project and the Project is consistent with the eight relevant criteria.

6.4.1 Alternatives to Conversion of Section 6(f)-Protected Land

Section 6(f) requires an evaluation of all practical alternatives to the proposed conversion of the Section 6(f) resource (36 CFR § 59.3(b)(1)). As outlined in the NPS Program Manual, NPS must find that all practical alternatives to the conversion have been evaluated and rejected on a sound basis before a conversion can be approved.

A number of potential alternatives were developed for the Project, including alternatives that would avoid the need to convert parkland. As described in Chapter 3, “Project Alternatives,” of this Draft Environmental Impact Statement (DEIS), nine potential Project alternatives were developed during the scoping process for the DEIS completed for the Project in 2012 in accordance with New York’s State Environmental Quality Review Act (SEQRA). Of these, seven would avoid the need for conversion of parkland in Letchworth State Park (see **Table 6-4** below). The SEQRA DEIS discussed the potential alternatives that were considered and eliminated from further study based on a previous alternatives analysis, and studied additional alternatives in detail. Using the previous analyses conducted for the SEQRA DEIS, and in consideration of public and agency input received during development of the SEQRA DEIS, public review of the SEQRA DEIS, and the scoping phase for this DEIS prepared in accordance with the National Environmental Policy Act (NEPA), a number of potential alternatives were eliminated from further study in the NEPA DEIS. Among the alternatives that would avoid the need for parkland conversion, Alternatives 1, 2, 6, 7, 8, and 9 were found not to meet the Project’s purpose and need, and Alternative 3 was found to be unreasonable. Therefore, these alternatives were eliminated from further consideration. Alternative 5 (New Bridge on Parallel Alignment / Convey Existing Bridge) would require conversion of the same amount of parkland as the Project and was also determined to be unreasonable. Alternative 4 (New Bridge on Parallel Alignment / Remove Existing Bridge) was selected as the Preferred Alternative. The following section describes the potential alternatives that would avoid conversion of parkland and why they were eliminated from further study in this NEPA DEIS.

Table 6-4
Potential Alternatives
that Would Avoid Parkland Conversion

Alternative	Description
1	No Action Alternative
2	Repair / Retrofit Existing Bridge
3	New Bridge on Same Alignment
6 and 7	Southern Alignment
8 and 9	Reroute Rail Traffic

Alternative 1—No Action

The No Action Alternative assumes that the existing Portageville Bridge will remain in service and will be subject only to required maintenance. With the No Action Alternative, there would be no change to parkland compared to existing conditions. No parkland would be converted for the

new railroad right-of-way. However, this alternative would maintain the existing deficiencies of the Portageville Bridge and could jeopardize the long-term viability of the Southern Tier route.

Under this alternative, given the age and condition of the bridge, it is anticipated that the bridge would eventually be deemed unsafe for continued freight operations, at which time it would have to be closed to rail traffic. Without a bridge across the Genesee River, Norfolk Southern would either have to 1) eliminate rail freight service to several locations and for several customers, and reroute trains over other routes maintained by other railroads, which is logistically complex and would add five-hour service delays; and/or 2) cease the use of the Southern Tier route altogether, which would result in the loss of customers and routes. This alternative would not meet the Project's purpose and need but is carried forward to serve as the baseline for evaluating the potential impacts of the Preferred Alternative in the NEPA DEIS. Therefore, the No Action Alternative is not a practical alternative to avoid conversion of parkland in Letchworth State Park.

Alternative 2—Repair / Retrofit Existing Bridge

Alternative 2 would involve repairing and retrofitting the existing bridge to the capacity needed to meet current and future freight transport needs and would not require permanent conversion of parkland. Following an inspection of the existing bridge, Norfolk Southern determined that the extent of structural deficiencies precluded Alternative 2 from being a reasonable alternative.

The necessary repairs and retrofits could not be feasibly undertaken while the bridge is open to rail traffic; therefore, Alternative 2 would require rail traffic to be rerouted for 18 months, depriving customers of the benefits of the Southern Tier route, including the efficiencies associated with it. This alternative would require the temporary elimination of rail freight service to several locations and for several customers, and the required complex rerouting of trains over other routes maintained by other railroads. Norfolk Southern estimates that this alternative would require an additional \$22 million in operating costs and result in five-hour service delays during construction and the potential permanent loss of affected customers to other modes or other freight carriers.

Alternative 2 does not meet the Project's purpose and need, and is not considered a practical alternative to avoid conversion of parkland in Letchworth State Park.

Alternative 3—New Bridge on Same Alignment

Alternative 3 would involve demolishing the existing bridge and piers, and constructing a new bridge at the same location and alignment. Thus, no permanent conversion of parkland would be required. Alternative 3 would shut down a portion of the Southern Tier route during the 18- to 31-month construction period (the construction period would depend on the type of replacement bridge constructed). As with Alternative 2, all rail freight would be routed to other rail lines, which would temporarily eliminate rail freight service to several locations and customers. As a result, Norfolk Southern estimates that this alternative would require an additional \$22 million in operating costs and result in five-hour service delays during construction and the potential permanent loss of affected customers to other modes or other freight carriers. As such, Alternative 3 does not meet the Project's purpose and need and is not a practical alternative to avoid conversion of parkland in Letchworth State Park.

Alternatives 6 and 7—Southern Alignment

Alternatives 6 and 7 would reroute the Southern Tier rail freight route entirely outside of Letchworth State Park, which would avoid the need for conversion of parkland. These two alternatives would reroute the Southern Tier route using a new, 4.5-mile rail line and related infrastructure constructed outside of Letchworth State Park. The new route would be south and west of the southern end of the park. In Alternative 6, the existing bridge, piers, and railroad

tracks through Letchworth State Park would be removed upon completion of the new railroad alignment; in Alternative 7, the existing bridge and piers would remain but the railroad tracks through Letchworth State Park would be removed.

Alternatives 6 and 7 would avoid the conversion of any area of Letchworth State Park for railroad right-of-way, but would have land use impacts, would require acquisition of approximately 54 acres of land, would cost more than three times the cost of the Project, and were overwhelmingly opposed during public review. Alternatives 6 and 7 were eliminated from consideration because they do not meet the Project's purpose and need. Therefore, Alternatives 6 and 7 are not practical alternatives to avoid conversion of parkland in Letchworth State Park.

Alternatives 8 and 9—Reroute Rail Traffic

Under Alternatives 8 and 9, Norfolk Southern would cease using a substantial portion of the Southern Tier rail route, eliminating the need for a Genesee River crossing. In Alternative 8, the existing bridge and piers would be removed upon completion; in Alternative 9 the existing bridge would remain in place. Without through rail freight service on the route, Alternatives 8 and 9 would restrict or remove rail freight service to a number of communities and customers and as such have the potential for negative impacts to the region's economy (see the discussion of Alternative 1, the No Action Alternative). Alternatives 8 and 9 do not meet the Project's purpose and need and are not considered practical alternatives to avoid conversion of parkland in Letchworth State Park.

6.4.2 Appraisal of Fair Market Value

Prior to approving a conversion of Section 6(f) parkland to non-park use, NPS must find that the fair market value of the park property to be converted has been established and that the property proposed for replacement is of at least equal fair market value, as established by an appraisal performed in accordance with the Uniform Appraisal Standards for Federal Land Acquisition, excluding the value of structures or facilities that would not serve recreational purposes. (36 CFR § 59.3(b)(2)) Alternatively, as described in the NPS Program Manual (page 4-22; Chapter 4, Section D.7.D), the State may waive the appraisal and prepare a waiver valuation when "the valuation problem is uncomplicated and the estimated value of the real property is \$10,000 or less based on a review of available data;" this waiver valuation cap can be increased to up to \$25,000 if the acquiring agency offers the owner the option to have an appraisal, and the owner elects to have the agency prepare a waiver valuation instead. For this Project, OPHRP has waived the appraisal and will prepare a waiver valuation in accordance with applicable regulations.

6.4.3 Evaluation of Reasonably Equivalent Usefulness and Location

In order to approve a conversion, NPS must also find that the property proposed for replacement (the replacement property) is of reasonably equivalent usefulness and location as the property being converted. (36 CFR § 59.3(b)(3))

Criteria for Evaluation

As set forth in the NPS Program Manual, depending on the situation, and at the discretion of NPS, the replacement property need not provide identical recreation experiences or be located at the same site as the conversion property, provided it is in a reasonably equivalent location. The applicable U.S. Department of the Interior regulations, which are incorporated into the NPS Program Manual, set forth the following criteria that are used to determine whether a replacement parcel is of equivalent usefulness and location to the converted property:

- The property to be converted must be evaluated to determine what recreation needs are being fulfilled by the existing facilities and the types of outdoor recreation resources and opportunities available. The property proposed for replacement must then be evaluated in a

similar manner to determine if it will meet recreation needs that are at least like in magnitude and impact to the user community as the conversion parcel.

- The replacement property need not necessarily be directly adjacent to or close by the converted site, but it should normally serve the same community. The replacement property should generally be administered by the same political jurisdiction as the converted property.
- The acquisition of one parcel of land may be used to satisfy several approved conversions.

These factors are discussed below for the Portageville Bridge Project's conversion proposal.

Evaluation of the Conversion Proposal for the Portageville Bridge Project

Conversion Proposal

The Portageville Bridge Project would require conversion of a total of 2.33 acres of Letchworth State Park from parkland. In exchange, a total of 2.33 acres that is in close proximity to the conversion area would be transferred from Norfolk Southern to the park as the replacement property.

The specific area to be converted and the replacement area are illustrated in **Figures 6-6 and 6-7** and listed in **Table 6-2**, above. As shown in the figures and detailed in the table, the parkland to be converted consists of sloped, wooded areas adjacent to the existing railroad right-of-way; a portion of a small, paved parking lot (the Highbridge Parking Area) just south of the existing bridge (the rest of the parking lot is located on land currently owned by Norfolk Southern); a small segment of Park Road (with an adjacent segment located on land currently owned by Norfolk Southern); a short segment of the Mary Jemison Trail close to the southern end of the trail (the trail begins at the parking lot on property owned by Norfolk Southern); an area of gorge face on the west side of the Genesee River; a small area of waters of the Genesee River that may be needed during construction; an area of the eastern banks of the river; and a small segment of the Genesee Valley Greenway Trail (adjacent to another segment located on land owned by Norfolk Southern). All of the parkland proposed for conversion is located in Letchworth State Park, and is in close proximity to the current Norfolk Southern railroad right-of-way and to the existing rail bridge across the Genesee River. An estimated 1.08 acres of the conversion area are on the west side of the Genesee River in Wyoming County; the other 1.25 acres of land to be converted are on the east side of the river in Livingston County.

The replacement property is also located within Letchworth State Park and is adjacent and in close proximity to the conversion property. The replacement property is currently owned by Norfolk Southern. As shown in the figure and table, the replacement property currently includes existing railroad right-of-way, including the existing rail bridge and the northern portion of its three piers. The water area beneath the existing bridge—including the area occupied by the existing bridge's piers—was not included in acreage for the replacement parcel. The railroad infrastructure, including the tracks, ballast, and the old rail bridge (including its piers in the Genesee River) would be removed as part of the conversion proposal. The replacement property also includes wooded land that already functions as open space for users of Letchworth State Park, even though it is not currently parkland. It includes a segment of Park Road, the Gorge Trail, and the gorge face on the west side of the river, waters of the Genesee River, steep banks on the east side of the river, and an area of the Genesee Valley Greenway Trail on the east side of the river. An estimated 0.88 acres of the replacement property are located in Wyoming County and the other 1.45 acres are in Livingston County.

The replacement parcel is located in close proximity to the parcels to be converted and has essentially the same uses as the conversion parcel. As such, NPS can find that the replacement property is of reasonably equivalent usefulness and location as the conversion property, as described below.

Replacement Property Can Meet the Same Recreation Needs as the Conversion Property

The replacement property is located within the larger boundaries of Letchworth State Park, as are the conversion properties. Like the conversion properties, the replacement property provides a mix of wooded areas, steep slopes, segments of trails, a segment of Park Road, and areas close to an active freight railroad right-of-way.

Replacement Property is Close to the Conversion Property and Can Serve the Same Community

The replacement property is located adjacent and in close proximity to the conversion properties and would serve visitors to Letchworth State Park, the same community served by the conversion properties.

Acquisition of One Parcel of Land to Satisfy Several Approved Conversions

As noted above, under the Section 6(f) regulations, the acquisition of one parcel of land may be used to satisfy several approved conversions. This criterion does not apply to the Project. The Portageville Bridge Project involves one conversion proposal, with the use of several privately owned properties as the replacement parcel for the conversion of several park areas.

6.4.4 Replacement Property Meets the Eligibility Requirements for Acquisition

In order to approve a conversion, NPS must find that the property proposed as a replacement property would itself meet the eligibility requirements for LWCF-assisted acquisition (36 CFR § 59.3(b)(4)). As set forth in the regulations and the NPS Program Manual, this means that the parcel must be accessible to the public and must constitute or be part of a viable recreation area. Land currently in public ownership must not be used as a replacement property unless additional criteria can be met. Further, if full development of the replacement property will be delayed beyond three years from the date of the conversion approval, the conversion proposal must explain why this is necessary (NPS Program Manual, page 8-6).

The replacement property would become part of Letchworth State Park, a viable recreation area that currently surrounds the property. It would be accessible to the public in the same way that the conversion properties currently are. The replacement property would be available for use as parkland once the construction of the new railroad right-of-way and new rail bridge are complete. Following receipt of all required approvals, including approval for the conversion of parkland from NPS, the Project is expected to take no more than three years to complete, including final design and construction.

6.4.5 Remaining Park Area Must Remain Recreationally Viable

For parks where only a portion of the Section 6(f) property is proposed to be converted, the impact of the conversion on the remaining area must also be considered and the unconverted area must remain recreationally viable or be replaced as well. (36 CFR § 59.3(b)(5))

Letchworth State Park is a 14,350-acre park that extends approximately 17 miles along the Genesee River. As described earlier in Section 6.3.1, the south end of the park is notable for the river gorge and three waterfalls, the scenic overlooks, and a concentration of the park's historic structures and sites, which include the Portageville Bridge itself. According to OPRHP, the south end of the park is the most intensely used area of the park and supports the greatest number of visitors. The north end of the park has fewer scenic sites of this nature, and is characterized predominantly by the Mt. Morris Dam on the Genesee River. This end of the park also has a large trailer and tent camping area. The Portageville Bridge Project involves conversion of a small area of outdoor recreation land in the southern portion of Letchworth State Park—adjacent to an active freight railroad right-of-way. This conversion of a total of 2.33 acres (permanent and temporary) would affect only a small area of the park, although the affected area would be within

the portion of the park that has some of the most notable scenic areas and is most heavily visited. As described below, with the conversion proposal, the remaining unconverted area of Letchworth State Park would remain recreationally viable. The effects of the conversion proposal on the remaining area of Letchworth State Park during construction and upon completion of the bridge replacement project are described below in Sections 6.4.5-1 and 6.4.5-2, respectively.

6.4.5-1 Park Viability During Construction

The conversion of parkland is required for construction of the Project. During construction, the area where work is occurring would be closed to the public. Within Norfolk Southern's existing property (not subject to Section 6(f) approval), this would result in closure of the segment of Park Road, a portion of the Highbridge Parking Area, and the segments of the Gorge Trail and the Mary Jemison Trail that are located within Norfolk Southern's existing right-of-way. The segment of the existing Genesee Valley Greenway Trail that passes through Norfolk Southern's right-of-way on the east side of the river (also not subject to Section 6(f) approval) would also have intermittent closures of less than six months total. Within the conversion areas, the rest of the parking lot and small additional areas of Park Road and the Mary Jemison Trail would be affected. A total of 2.33 acres of parkland, representing less than 0.02 percent of the 14,350-acre park, would be disturbed.

The effects of the construction activity within Norfolk Southern's right-of-way and within the conversion areas would be as follows.

Park Road

Park Road runs north–south for the length of Letchworth State Park, from the Portageville Entrance on the south to the Mount Morris Entrance on the north, providing access to all of the park areas on the west side of the Genesee River.

During the winter, most of Park Road is closed and remains unplowed, which allows its use for winter recreational activities. During winter months, the Portageville Entrance is closed. The other three park entrances are open year-round, but provide access only to short segments of Park Road during winter months, when the rest of the road is closed. In the winter, Park Road is open between the Mt. Morris Entrance and Perry Entrance, and from the Castile Entrance to Glen Iris Inn and other recreational features near the Middle Falls. South of Middle Falls, including in the area alongside the Portageville Bridge, Park Road is closed in the winter and serves as part of a designated snowmobile trail.

During construction, a total of approximately 600 linear feet of Park Road within the construction zone would be closed to the public, including the area within the construction easement area needed for the duration of the construction as well as the portion within the existing and proposed (future) Norfolk Southern right-of-way. Another 120 feet of the roadway would be within a short-term construction area (in use for less than six months).

Because the short segment of road from the Portageville Entrance to the construction site (approximately ½ mile) does not provide access to any activities in Letchworth State Park north of the existing bridge, OPRHP has decided that it will close this ½-mile long roadway segment and the Portageville Entrance itself to vehicular traffic during construction. Similarly, there are no destination points and no existing adequate places to turn around between the construction closure and the Upper/Middle Falls Area turn-off on Park Road, north of the Project site. Consequently, OPRHP has decided that it will close this roadway segment for the duration of construction. **Figure 6-8** illustrates the segments of road that would be closed during construction.

The only park features located between the Portageville Entrance and the Upper/Middle Falls Area turn-off (approximately 0.5 miles to the north) are the southern trailheads for the Mary

Jemison Trail and Gorge Trail, but both of these trailheads would be closed during construction (see below). In addition, in the winter when the Portageville Entrance is closed to vehicles, the segment of Park Road between that entrance and the Highbridge Parking Area/Mary Jemison Trail serves as part of a snowmobile trail (see the discussion of the Mary Jemison Trail below).

The rest of Park Road—i.e., the area north of the Upper / Middle Falls Area turn-off—would be unaffected by the bridge construction project. This section of the road would remain accessible via the other park entrances (the Castile Entrance, Perry Entrance, and Mt. Morris Entrance). Visitors to the park who come from the south would have to detour around the Portageville Entrance to the Castile Entrance (see **Figure 6-8**). For visitors, employees, and deliveries to the southern end of the park, the detour from the Portageville Entrance to the Castile Entrance would add approximately 2 to 5 miles to the trip, depending on the destination in the park. For vehicles bound for the northern part of the park that would have used the Portageville Entrance, the detour would add 1 mile to the trip.

To avoid congestion on busy days at the Castile Entrance because of the loss of entrance capacity at the Portageville Entrance during construction, Norfolk Southern will fund construction of a replacement entrance booth at the Castile Entrance with a two-lane entrance booth rather than the existing single lane, to provide greater capacity.

Highbridge Parking Area

This small parking area is located on the west side of Park Road just south of the Portageville Bridge. It currently serves park patrons using the southern trailheads for the Mary Jemison Trail and Gorge Trail (discussed below) and is part of a snowmobile trail in the winter.

The Highbridge Parking Area, including the portion located within Norfolk Southern's right-of-way and the portion on park property, is in the path of the proposed new track alignment and Park Road realignment and must be relocated. A new parking area would be created on the north side of the railroad right-of-way (partially within Norfolk Southern property and partially within the replacement property) that would be available once construction is complete. This parking area currently serves the southern trailheads for the Mary Jemison Trail and Gorge Trail, but both of these trailheads would be closed during construction (see below), so the temporary loss of the parking area would not affect activities in the rest of Letchworth State Park.

Mary Jemison Trail

The Mary Jemison Trail, designated as Trail #2 on OPRHP's map of Letchworth State Park, is a 2.5-mile trail that runs from the Highbridge Parking Area to the Council Grounds site. This trail is used for hiking, biking, horseback riding, skiing and snowmobiling (in the winter), and archery hunting (in the fall) as part of the deer management program in the park. For snowmobilers, the Mary Jemison Trail provides a connection from the south (via the Park Road beginning at the Portageville Entrance) to a larger corridor trail (State Corridor Trail 3) to the north. In addition, OPRHP sometimes uses the southern end of the Mary Jemison trail for interpretive programs.

The southern end of the Mary Jemison Trail, approximately 570 linear feet, would be closed because of its location within the construction zone. Upon completion of construction, this end of the trail would be relocated and rebuilt outside the railroad right-of-way. The northern trailhead at Council Grounds would remain accessible during construction, and the remainder of the trail would remain open to the public throughout construction.

Gorge Trail

The Gorge Trail extends seven miles along the western edge of the Genesee River gorge from a trailhead near the base of the existing rail bridge to the St. Helena Picnic Area in the middle of the park. Access to this trail is available from a number of points throughout the park. Near the Portageville Bridge, the Gorge Trail begins just south of the bridge across Park Road from the

Highbridge Parking Area, and passes beneath the bridge as it heads north along the edge of the gorge. The southern end of this trail, a total of approximately 320 linear feet, would have to be closed because of its location within the construction zone. Outside of the construction zone, the rest of the trail would remain open.

Genesee Valley Greenway Trail

On the east side of the river, the Genesee Valley Greenway Trail currently runs 5.75 miles within Letchworth State Park using the abandoned railroad bed of the Pennsylvania Railroad, which had originally been developed as the Genesee Valley Canal. In the park, the trail runs close to the east side of the river and passes beneath the Portageville Bridge. The segment of the Genesee Valley Greenway Trail in Letchworth State Park is part of a longer trail being developed on the canal tow path and rail bed that will extend 90 miles between Rochester and Cuba (at I-86 in the Southern Tier). The segment of the Genesee Valley Greenway Trail in the park is also part of the Finger Lakes Trail, which extends 26 miles from Mt. Morris at the northern end of the trail to the hamlet of Portageville at the southern end and connects there with the main Finger Lakes Trail system that runs east and west across upstate New York. Approximately 200 linear feet of this trail, which passes beneath the railroad bridge on the east side of the river, would be subject to intermittent closures during construction to protect the safety of the public. The total amount of time this trail would be affected would be less than six months. During construction, Norfolk Southern will work with OPRHP to provide signage on the trail to inform users of the status of trail closures or partial trail closure due to Project construction, including providing updates to such signage when subsequent phases of construction impact the trail.

Other Park Resources

In addition to these direct effects on recreational elements of Letchworth State Park, construction of the replacement bridge would also result in some temporary disruptions in the portions of the park nearby. Specifically, construction-related activities would result in temporary visual intrusions and create intermittent noise that may be audible for up to a mile in the park:

- **Visual Impacts:** There would be temporary visual impacts to viewers and viewsheds during the demolition of the existing bridge and construction of the new bridge, associated with the partial closure of some trails and associated viewing locations and the operation of heavy machinery, including construction cranes, which would be visible above the vertical limits of the existing bridge. During construction, both the existing bridge and the new bridge under construction would be present in the viewshed for a period of 2.5 to 3 years.
- **Noise Impacts:** There would be noise generated by vehicles, equipment, and rock excavation through controlled blasting, as well as potentially by pile drilling if that is required. The noisiest construction activity, pile drilling, may be audible for up to a mile from the construction site (see **Figure 6-8**). Controlled blasting activities may be audible for up to ½ mile from the site (see **Figure 6-8**). Controlled blasting would occur once or twice per week and for a very short time period each time, but for a duration of 4 to 8 months on the west side and 6 to 11 months on the east side of the river. Other construction equipment, like dump trucks, could be audible for ¼ mile from the site, and when multiple pieces of equipment are operating simultaneously, this would be audible for greater distances. Normal construction work hours would be on weekdays, although some time-sensitive tasks might be performed outside those hours or on weekends. These construction hours would limit to the extent possible the disruption to guests at the Glen Iris Inn and cabins, as well as those attending events at the Glen Iris Inn.

These construction-related inconveniences would not change the overall character of the park, however, nor result in any areas of the park becoming recreationally unviable. The noise and

visual changes would be noticeable from the immediate area of the park near the construction site, and at times noise would be audible at greater distances. Even so, given the attractiveness of this segment of the park, the construction activities are not expected to result in notable declines in patronage to the park.

The vast majority of the park would be unaffected during construction. As noted above, in the southern segment of the park, construction would be audible, but otherwise would not affect park activities. This area would include attractions such as the Glen Iris Inn, Upper/Middle Falls Picnic Area, and Council Grounds. Farther away, construction would be barely noticeable, if at all. These locations would include Lower Falls, Inspiration Point (other than distant views of the bridge), the Visitor Center, Swimming Pool and Cabins, Tea Table, St. Helens Picnic Area, Gardeau Overlook, Highbanks Camping Area, Highbanks Recreation Headquarters, Mount Morris Dam Overlook, Mount Morris Dam Visitor Center, and miles of trails and acres of natural areas. These facilities and recreational opportunities would continue to draw patrons to the park for the duration of the construction period.

6.4.5-2 Long-Term Park Viability After Conversion

The conversion of 2.33 acres of land protected under the LWCF from parkland, and the provision of 2.33 acres of replacement land, would not change the overall character of Letchworth State Park nor cause any unconverted areas of the park to become recreationally non-viable. The Project would shift an existing freight railroad right-of-way some 75 feet to the south of its current location and would provide replacement parkland on the north side of the new alignment, within a very short distance from the converted parkland. Once construction is completed, all park features affected during construction would be restored to their original function, as follows.

Park Road

Park Road would continue to run north-south for the length of Letchworth State Park. It would continue to pass through the right-of-way owned by Norfolk Southern and beneath the railroad bridge, as well as through the conversion property and the replacement property. The alignment of the roadway would be shifted slightly to the west to accommodate the new bridge foundations. As a benefit of the roadway relocation, an area of Park Road that is currently prone to erosion would be reconstructed to address this issue.

Highbridge Parking Area

The small parking area south of the existing railroad tracks (half of which is within property currently owned by Norfolk Southern) would be relocated to a new site north of the right-of-way. The new parking lot would be larger than the existing lot, providing additional parking capacity for park patrons. The parking lot would be increased from 17 spaces to 34 spaces, with the new parking area including a grassy island to manage stormwater runoff, improve traffic flow, and minimize overall impervious surfaces. The relocated parking lot would continue to serve park visitors using the Mary Jemison and Gorge Trails, as it does today.

Mary Jemison Trail

The southern trailhead for the Mary Jemison Trail would be shifted slightly to the south. With this shift, the trail would retain its existing functionality and recreational usefulness.

Gorge Trail

The southern trailhead for the Gorge Trail would be shifted slightly to the south and west, to meet the relocated Park Road. With this shift, the trail would retain its existing functionality and recreational usefulness. In the area where the Gorge Trail must be relocated, Norfolk Southern will salvage stone from existing walls to rebuild stone walls along the relocated trail, using a

design similar to the existing historic stone walls. In addition, as part of the Project, Norfolk Southern would provide funding to be used by OPRHP for its restoration of the existing Gorge Trail between the construction zone and Middle Falls, as identified as necessary by OPRHP. This work to be directed by OPRHP would include repointing selected walls, replacing and repairing certain damaged stairs, and replacing selected timber railings.

Other Park Resources

The vast majority of the park would be unaffected following construction of the Project. The park would continue to include the same attractions as it did before the construction project, and these facilities and recreational opportunities would have the same value as prior to the construction.

In the immediate vicinity of the bridge, the Project (and associated conversion proposal) would result in some effects to the surrounding park area, but these effects would not change the overall character of the park or the recreational viability of the park. These effects are discussed below.

Once the new bridge is in place, freight trains would operate at higher speeds through the park (35 miles per hour rather than 10 miles per hour). This would result in slightly increased noise levels associated with train operations that would be audible in the immediate vicinity of the railroad right-of-way in the park but no significant adverse noise impact would result.

Based on review under Section 106 of the National Historic Preservation Act of 1966, as amended, and its implementing regulations (36 CFR Part 800), the Project would cause an adverse effect to historic properties, due to the proposed demolition of the existing bridge, a contributing historic resource within the State and National Register-listed Letchworth State Park, and the permanent alternative or relocation of other contributing resources, including the Gorge and Mary Jemison Trails, Highbridge Parking Area and Historic Marker, Park Road, and fieldstone walls, as previously discussed.

As a visual resource, the existing Portageville Bridge contributes to the scenic qualities of the southern portion of Letchworth State Park, which is an aesthetic resource of statewide significance. The loss of the existing bridge would result in an adverse impact to viewers in locations where the bridge is a principal element of the view. However, the removal of the Portageville Bridge would not result in an adverse visual impact on Letchworth State Park as a whole, since Letchworth State Park is an approximately 14,350-acre park with numerous significant visual elements. While the Portageville Bridge is one of many elements that contribute to the park's aesthetic and visual character, it is only visible from certain locations at the south end of the park.

The new bridge proposed by the Project would not obstruct views of the natural features that compose Letchworth State Park, and would in fact enhance views of the river by eliminating the existing iron bridge supports that currently obstruct natural views within the river gorge. This would also return the river to its free-flowing condition.

As part of the Project, Norfolk Southern would provide funding to be used by OPRHP for its creation of interpretive materials describing the history of the existing bridge, including outdoor kiosks and an exhibit at the William Pryor Letchworth Museum.

Overall, the Preferred Alternative would not change the recreational viability of Letchworth State Park. A relocated parking area would be provided for access to the Gorge Trail and Mary Jemison Trail, and the southern segment of both trails would be relocated. Vistas of the scenic Genesee Gorge, including its three waterfalls, would remain notable in the park and the recreational areas from which those vistas are available would not be altered by the Project. All

park facilities and all types of activity available in the park would continue to be available upon completion of the Project.

6.4.6 Coordination with Federal Agencies Has Been Accomplished

The sixth criterion that must be satisfied for conversion of Section 6(f) parkland is that all necessary coordination with other federal agencies has been satisfactorily accomplished prior to the conversion. (36 CFR § 59.3(b)(6))

The Project's location and implementation requires coordination with several federal and state agencies with jurisdiction over parklands, waterways, and natural and ecological resources. The lead federal agency for the environmental review, which is being conducted in accordance with the National Environmental Policy Act (NEPA), is the Federal Highway Administration (FHWA). In accordance with the FHWA's NEPA procedures, FHWA and NYSDOT prepared a Coordination Plan that was distributed to federal and state agencies with potential jurisdiction over aspects of the Project. Consistent with and through that plan, FHWA and NYSDOT have identified and invited appropriate federal and state agencies to become Cooperating Agencies (i.e., those that have jurisdiction by law or special expertise with respect to any environmental impact involved in a proposed project or project alternative) or Participating Agencies (agencies that do not have jurisdiction or special expertise, but that are interested in the project) for the Project. Those agencies, and their responsibilities as they pertain to the Project, are summarized in **Table 6-5**.

FHWA, NYSDOT, and Norfolk Southern have undertaken coordination with the USACE regarding potential permits required for the Portageville Bridge Project. In addition, the Project sponsor is coordinating with the USFWS regarding potential effects to species protected under the Endangered Species Act and the Bald and Golden Eagle Protection Act, as documented in Chapter 4.4.9, "General Ecology and Wildlife Resources," of this NEPA DEIS. Coordination has also occurred with NPS and NYSDEC related to the Genesee River's protected status under the Genesee River Protection Act.

6.4.7 Guidelines for Environmental Evaluation Have Been Met

The guidelines for environmental evaluation must have been satisfactorily completed and considered by the NPS during its review of the conversion and replacement proposal. (36 CFR § 59.3(b)(7))

The environmental effects of the Portageville Bridge Project are being evaluated in accordance with NEPA, with FHWA and NYSDOT as lead agencies for that review. In accordance with NEPA, a DEIS has been prepared to evaluate the Project's environmental effects. In addition, FHWA and NYSDOT have conducted analysis and outreach in accordance with Section 106 of the National Historic Preservation Act. On the basis of the analysis conducted, FHWA, in coordination with NYSDOT and in consultation with the SHPO, determined that the Preferred Alternative would result in an Adverse Effect on Letchworth State Park, which is listed on the State and National Registers of Historic Places (S/NRHP), because it would involve removing or altering a number of contributing elements to the park's S/NRHP listing. The SHPO concurred with an Adverse Effect on February 20, 2014. On March 7, 2014, the Section 106 Finding Documentation and a Preliminary Draft Memorandum of Agreement (MOA) presenting measures to mitigate adverse effects on historic properties were distributed to the Section 106 Consulting Parties for this Project. The Preliminary Draft MOA was developed through extensive consultation among FHWA, NYSDOT, OPRHP, the SHPO, and Norfolk Southern. The Consulting Parties were given until April 8, 2014 to provide written comments. On March 20, 2014, NYSDOT and FHWA held a Consulting Party meeting to seek and consider the views of Consulting Party members regarding the Project's potential effects on identified historic properties and to consider input on possible measures to avoid, minimize, or mitigate adverse

effects. In consultation with the SHPO, NYSDOT and FHWA considered all Consulting Party comments received by April 8, 2014. **Appendix C** to this DEIS contains the Section 106 documentation for this Project, including the Draft MOA.

Table 6-5
Lead and Invited Cooperating and Participating Agencies

Agency	Role	Responsibilities
Federal Highway Administration (FHWA)	Federal Lead Agency	Manage environmental review process; prepare EIS and decision document; provide opportunity for public and agency involvement; arbitrate and resolve issues
New York State Department of Transportation (NYSDOT)	State Lead Agency	Manage environmental review process; prepare EIS and decision document; provide opportunity for public and agency involvement; arbitrate and resolve issues
Advisory Council on Historic Preservation	Cooperating Agency	Section 106, National Historic Preservation Act
U.S. Army Corps of Engineers (USACE)	Cooperating Agency	Section 404, Clean Water Act permit Section 10, Rivers and Harbors Act permit
U.S. Department of Interior (DOI)	Cooperating Agency	Section 4(f), U.S. Department of Transportation Act
U.S. Department of Interior, National Park Service (NPS)	Cooperating Agency	Section 6(f), Land and Water Conservation Fund Act approval Section 7, National Wild and Scenic Rivers Act and Genesee River Protection Act approvals
U.S. Environmental Protection Agency (USEPA)	Cooperating Agency	Section 309, Clean Air Act Section 404, Clean Water Act National Environmental Policy Act
U.S. Fish and Wildlife Service (USFWS)	Cooperating Agency	Section 7, Endangered Species Act Bald and Golden Eagle Protection Act permit
New York State Department of Environmental Conservation (NYSDEC)	Cooperating Agency	Section 401 Certification, Clean Water Act State Pollutant Discharge Elimination System (SPDES) for construction activities Section 7, National Wild and Scenic Rivers Act and Genesee River Protection Act consultation
State Historic Preservation Officer (SHPO)	Cooperating Agency	Section 106 Consultation, National Historic Preservation Act; Section 4(f), U.S. Department of Transportation Act
New York State Office of Parks, Recreation and Historic Preservation (OPRHP)	Cooperating Agency	Section 6(f), Land and Water Conservation Fund Act; Section 4(f), U.S. Department of Transportation Act Construction clearances and approval of improvements within Letchworth State Park
Federal Railroad Administration (FRA)	Cooperating Agency	Consultation
Surface Transportation Board	Participating Agency	Consultation
Genesee Transportation Council	Participating Agency	Consultation
Livingston County	Participating Agency	Consultation
Wyoming County	Participating Agency	Consultation
Town of Genesee Falls	Participating Agency	Consultation
Town of Portage	Participating Agency	Consultation

The Project also requires consideration under Section 4(f) of the U.S. Department of Transportation Act of 1966. Section 4(f) prohibits FHWA from approving any program or project that requires the “use” of (1) any publicly owned parkland, recreation area, or wildlife and waterfowl refuge of national, state, or local significance; or (2) any land from a historic site of national, state, or local significance (collectively, “Section 4(f) properties”), unless there is no feasible and prudent avoidance alternative to the use of such land and the action includes all possible planning to minimize harm to the park, recreation area, wildlife refuge, or historic site resulting from such use; or it is determined that the use of the property, including measures to minimize harm, will have a *de minimis* impact on the property.

One Section 4(f) property, Letchworth State Park, would be permanently used for the Project—the same park area that is subject to review under Section 6(f). Letchworth State Park qualifies for protection under Section 4(f) both as a public park and as a historic property that is listed on the S/NRHP. A Section 4(f) evaluation is provided in Chapter 5 of the DEIS. As discussed in the evaluation, no feasible or prudent alternative exists to the use of Letchworth State Park; therefore, measures have been developed in accordance with Section 106 to minimize harm to contributing resources to the park’s historic character, as discussed above. Measures have also been developed and will be implemented to minimize harm to Letchworth State Park’s recreational features.

Public notice and an opportunity for public review and comment will be provided on the draft Section 4(f) Evaluation concurrent with public review of the DEIS. After public comment on this draft Section 4(f) statement is received, FHWA, as the lead federal agency, will make its final Section 4(f) finding when it issues the Final Environmental Impact Statement (FEIS) for the Project.

6.4.8 State Intergovernmental Clearinghouse Review Procedures

In addition, if the proposed conversion and replacement proposal constitute significant changes to the original LWCF project, state intergovernmental clearinghouse review procedures must be followed. (36 CFR § 59.3(b)(8))

The proposed conversion and replacement for the Project do not constitute a significant change to the LWCF projects at Letchworth State Park and therefore this criterion does not apply to the Project. Further, New York State has chosen not to participate in the intergovernmental review process.

6.4.9 Consistency of the Proposed Conversion and Replacement with the Statewide Comprehensive Outdoor Recreation Plan

The ninth criterion for a conversion proposal is that NPS must make a determination that the proposed conversion and replacement are in accordance with the applicable State Comprehensive Outdoor Recreation Plan (SCORP). (36 CFR § 59.3(b)(9)) For Letchworth State Park, the applicable SCORP is *The Final Statewide Comprehensive Outdoor Recreation Plan and Final Generic Environmental Impact Statement for New York State 2009-2013* (OPHRP, 2008).

New York State’s SCORP serves as OPRHP’s “status report and as an overall guidance document for recreation resource preservation, planning and development through 2013.”² The document sets forth 11 guiding policies intended to provide direction and support for protection and management of natural, cultural, and recreation resources; for each of those policies it also provides action strategies that support and explain those policies. The 11 policies are as follows:

² SCORP, p. 9, available at <http://nysparks.state.ny.us/recreation/trails/statewide-plans.aspx>.

1. *Improve recreation and historic site operation, maintenance, and resource management practices.* The action strategies under this policy include rehabilitation and adaptive reuse of recreation and historic facilities where feasible, and ongoing protection of natural and cultural resources.
2. *Improve and expand water-oriented recreation opportunities.* This includes development of areas where access to the water is provided, and upgrading and protecting water resources.
3. *Apply research techniques and management practices to improve and expand parks, trails, and other open spaces.*
4. *Preserve and protect natural and cultural resources.* The action strategies for Policy 4 include ensuring that recreation is compatible with environmental characteristics, responsible stewardship of land and water resources that sustain plant and animal species and their habitats, protecting habitat corridors and buffer areas, complying with state and federal environmental and historic preservation regulations.
5. *Support compatible recreation and interpretive programs.* This policy's action strategies include coordinating, improving, and expanding environmental, historical, and cultural interpretive programs in recreational facilities; and providing patron opportunities and interpretive programs for observation and education about significant natural and cultural resources.
6. *Develop comprehensive, interconnected recreationway, greenway, blueway and heritage trail systems.* This includes development of interconnecting trails, full completion of the 534-mile canalway trail system, and encouraging expansion of the Wild, Scenic, and Recreational Rivers System.
7. *Protect natural connections between parks and open space areas.*
8. *Improve access to opportunities for regular physical activity that is in close proximity to where people live, work, and/or go to school.*
9. *Improve cooperation and coordination between all levels of government and the private sector in providing recreational opportunities and in enhancing natural and cultural resource stewardship.*
10. *Employ ecosystem-based management to ensure healthy, productive and resilient ecosystems which deliver the resources people want and need.*
11. *Improve and expand the statewide commitment toward environmental sustainability in all parks, recreation and historic sites and support facilities.*

In addition to these policies, the SCORP also discusses the need for ongoing land conservation and resource stewardship in New York State, including open space conservation as identified in New York State's 2006 Open Space Conservation Plan. As part of the open space conservation plan for the State, the SCORP describes successes from priority projects listed in the 2002 Open Space Conservation Plan, which include OPRHP's acquisition of nearly 89 acres of land in the hamlet of Portageville from the Nunda Rod and Gun Club, which were added to Letchworth State Park. Also partially in Letchworth State Park, the SCORP lists completing the 90-mile Genesee Valley Greenway Trail, which currently has significant gaps and encroachments, as an important future priority. It also lists protection of existing ecological corridors in Region 9 (which includes Wyoming County) as an important priority, including the Genesee River corridor.

The conversion proposal for Letchworth State Park land as part of the Portageville Bridge Project would be consistent with the SCORP. It would maintain the existing recreational resources at Letchworth State Park and would be conducted in a way that is compatible with environmental characteristics and responsible stewardship of land and water resources that

sustain plant and animal species and their habitats, that would protect habitat corridors and buffer areas, and that would comply with state and federal environmental and historic preservation regulations. The Project would result in adverse impacts to a small wetland and small areas of forested land, but measures to minimize these impacts have been developed, and will be refined, in consultation with OPRHP, and these would not change the overall character of the park or ecological significance of or function of the park. Mitigation for any adverse effects to natural resources is being developed in consultation with OPRHP and incorporated into the Project. Similarly, while the Project would result in an adverse effect to Letchworth State Park, which is listed on the S/NRHP, mitigation for this impact has been developed in accordance with Section 106 of the National Historic Preservation Act.

The conversion proposal would not adversely affect the priority projects of the Open Space Conservation Plan, including the recently acquired Nunda Rod and Gun Club property, the ongoing development of the Genesee Valley Greenway Trail, or the protection of the Genesee River corridor as an ecological corridor.

6.5 COORDINATION

When applications to convert Section 6(f) parkland to non-park use are proposed, the state resource agency is responsible for coordination with NPS and for provision of all required application materials. For the Portageville Bridge Project, OPRHP will coordinate with NPS and will provide to NPS a formal conversion request. The formal conversion request submission will include an LWCF amendment form for Letchworth State Park as well as other documentation.